

REMARKS

Reconsideration of the present application is respectfully requested. Claims 13-18 and 20-29 are now pending and under consideration. Claims 13, 15, 16, 17, 21, 25, 26, and 27 are amended herein. Claims 1-12 and 19 were previously canceled.

In this paper, the Applicants address the issues raised in the Office Action, and respectfully request reconsideration of the application based on same. It is submitted the rejections are overcome by amendment and/or the following discussion. Accordingly, it is believed that the claims are in condition of allowance.

Claims 13, 15, 16, 17, 25, 26, and 27 are amended herein to address the rejection of the claims under 35 U.S.C. § 112 paragraph 2. Claim 13 is amended to indicate that a composition is formed when the thermally modified ground product, yeast, and water are blended, the composition being one of a blend and a suspension, with “composition” replacing the prior reference to “blend” at the appropriate locations in claims 13, 15, 16, 17, 25, 26, and 27. Support can be found in the claims as presented previously. This amendment is believed to overcome that part of the rejection directed to the recitation of “blend is otherwise a suspension”, which recitation is canceled from the claims in this paper.

Claim 13 now recites “simultaneous with or immediately subsequent to initiating fermentation”, in lieu of “simultaneous with initiation of fermentation”.

Claim 13 is also amended to indicate “whereby the blending [of thermally modified ground product, yeast, and water] is an act of initiating fermentation”. With the understanding that the blending of the yeast, water and thermally ground product to form a composition is a fermentation initiating-action, it is submitted that the lack of clarity, if any, in the prior recitation is addressed in a manner that overcomes this aspect of the rejection.

The recitation in claim 13 providing for “storing the pre-dough concentrate at a temperature in a range of 0°C and 6°C” gives rise to another rejection under section 112 paragraph 2. This rejection is believed to be overcome for the following reason. It is submitted that when the claim is read as a whole, as opposed to reading this particular limitation in isolation, it becomes apparent that the limitation in question is not indefinite. The claim provides that after cooling the composition, it is stored in a temperature range that is slightly broader (0°C to 6°C) than the range at which it is initially cooled (0°C to 4°C). Thus, when the claim is viewed as a whole, it is apparent that the limitation in question is compliant with section 112 paragraph 2. The skilled artisan would readily recognize that once the target cooling temperature is attained, the composition can then be maintained at that temperature, or at a temperature slightly greater, that is, up to 6°C. Accordingly, it is submitted that the rejection is overcome.

It is respectfully submitted that the language of claim 15, also subject to a section 112 paragraph 2 rejection, is not indefinite. Claim 15 indicates that during a part of the fermentation, the composition has a temperature of 4°C to 8°C. This is fully consistent with claim 13, which indicates that the composition is cooled to 0°C to 4°C. The skilled artisan would readily appreciate that in reaching the target temperature, the composition will pass through the range of 4°C to 8°C. Accordingly, claim 15 is believed to comply with section 112 paragraph 2. The Applicants believe that their position is supported by the table found on specification page 14, where the temperature of the composition is provided over a twenty two (22) hour period after the start of fermentation, as it is cooled at a temperature of 2°C. As shown in the table, the composition initially warms due to high fermentation activity, but eventually cools to a temperature of just about 4°C. This demonstrates that during cooling, the temperature passes through the range recited in claim 15.

Accordingly the rejection under the second paragraph of section 112 as applied against the aforementioned claims is believed to be overcome.

Claims 13-18 and 20-29 are rejected under 35 U.S.C. § 103 (a) as unpatentable over Domingues et al., WO 93/01724 (“Domingues”) in view of Schou et al., EP 0152 943 (“Schou”). The Applicants respectfully submit that the rejection is overcome.

The Applicants respectfully wish to point out that the consideration of the present application to date appears to not fully account for the substantial difference between the teachings of Domingues, in particular, and the present claimed invention. That is, whereas the present invention is directed to **final dough products** ready for baking, the present invention is directed to a **pre-dough concentrate** intended to constitute a portion of the main dough used to bake breads and other baked goods. See, e.g., specification at page 4, where it is indicated that the pre-dough concentrate of the present invention accounts for 3-8 wt% of the quantity of flour in the main dough or 1.5-5 wt% of the quantity of the main dough.

The Applicants' invention provides a solution to a long felt need in the baking industry, one that was not apparent to the person of ordinary skill in the art working at the time the present invention was made. That person, apprised of Domingues and Schou in the relevant time period, would not have employed their teachings in the making of a pre dough concentrate. This is because the references fail to provide any teaching, suggestion, motivation, or other apparent reason to make a pre dough concentrate. Clearly, there is no citation that shows the making of a pre dough concentrate that is remotely similar to the method employed by the present applicants. There is no indication that such a concentrate produced according to the claimed method exists in the art.

Domingues teaches processes intended to limit carbon dioxide production though the selected yeast strain, and in fact in its claim 4 indicates that carbon dioxide production is halted when the dough is refrigerated. According to Domingues, there is no substantial fermentation that takes place prior to refrigeration, apparently due to the attempts in Domingues to retard fermentation by manipulating the yeast starter solutions, such as, for example employing very cold water in the starter solutions, and by employing yeast strains that are specially adapted to limit carbon dioxide production. This is consistent with Domingues' teaching that carbon dioxide production is substantially halted at refrigeration temperatures. From the above, it is apparent that to the person of ordinary skill in the art, at the time the present invention was made, would consider Domingues as teaching a method where fermentation is substantially halted in when the dough is stored in a refrigerator. This teaches away from the invention presently claimed. As indicated in claim 13 of the present application, when the composition is chilled at temperatures of 0-2 °C, fermentation continues, though the rate of fermentation decreases as the temperature of the pre-dough decreases. In other words, in the present invention, cooling temperatures diminish fermentation from what it would be at warmer temperatures, while in Domingues, yeast selection and yeast treatment have an absolute effect on halting fermentation. Further, the present invention indicates that fermentation occurs at temperatures in the range of 4 to 8

°C (see claim 15). This aspect is at odds with Domingues, where fermentation is substantially halted.

Also, whereas Domingues seems to suggest maintaining the dough in an environment having temperatures close to the present claimed chilling temperatures, that technique is never employed in Domingues. In fact, in all instances disclosed in Domingues, the dough is maintained at elevated temperatures in the range of 30-40 °C for a substantial period of time after the dough is prepared. Thus, the elements of Domingues that are alleged by the Examiner as negating the patentability of the present invention *are never actually practiced*. This would lead a person of ordinary skill in the art working at the time the present invention was made to determine that the procedures taught by Domingues that lead to the substantial halting of fermentation are, in actuality, not at all practical.

As understood by the Applicants, Schou is cited in combination with Domingues for its teachings relating to grain processing. Notably, all bread products disclosed in Schou are made *immediately* after formation of dough that contains grains processed according to Schou's teachings. Thus, Schou is not consistent with the claimed subject matter that concerns pre dough concentrates stored for a period of time before use. Moreover, Schou is completely at odds with the teachings of Domingues, since Domingues teaches a final dough product intended for storage. Nothing in Schou informs the skilled artisan why a thermally modified ground

product should be used in making a pre dough concentrate. Accordingly, the skilled artisan, at the time the present invention was made, would find Schou to be an irrelevant teaching and would not combine same with the teachings of Domingues.

Accordingly, it is respectfully submitted that the section 103 rejection of claims 13-18 and 20-29 is overcome.

NO FEE DUE

No fee is believed due. If there is any fee due the USPTO is hereby authorized to charge such fee to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,

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